

CENTER FOR DISABILITY ACCESS  
Amanda Seabock, Esq., SBN 289900  
Prathima Price, Esq., SBN 321378  
Dennis Price, Esq., SBN 279082  
Mail: 100 Pine St., Ste. 1250  
San Francisco, CA 94111  
(858) 375-7385; (888) 422-5191 fax  
[amandas@potterhandy.com](mailto:amandas@potterhandy.com)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

## **Orlando Garcia,**

Plaintiff,

V.

**Mary L. Ghattas**, in individual and representative capacity as Trustee of the Mary L. Ghattas Family Trust dated 10/14/18;

dated 10/14/18,  
**Lotfi Ghattas**, in individual and  
representative capacity as Trustee of  
the Lotfi Ghattas 2016 Trust

## Defendants.

**Case No.**

# **Complaint For Damages And Injunctive Relief For Violations Of: Americans With Disabilities Act; Unruh Civil Rights Act**

Plaintiff Orlando Garcia complains of Mary L. Ghattas, in individual and representative capacity as Trustee of the Mary L. Ghattas Family Trust dated 10/14/18; Lotfi Ghattas, in individual and representative capacity as Trustee of the Lotfi Ghattas 2016 Trust; and alleges as follows:

## **PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff suffers from Cerebral Palsy. He has manual dexterity issues. He cannot walk.

1 He uses a wheelchair for mobility.

2       2. Defendant Mary L. Ghattas, in individual and representative capacity as  
3 Trustee of the Mary L. Ghattas Family Trust dated 10/14/18, owned the real  
4 property located at or about 2698 San Bruno Ave., San Francisco, California,  
5 in February 2022.

6       3. Defendant Mary L. Ghattas, in individual and representative capacity as  
7 Trustee of the Mary L. Ghattas Family Trust dated 10/14/18, owns the real  
8 property located at or about 2698 San Bruno Ave., San Francisco, California,  
9 currently.

10      4. Defendant Lotfi Ghattas, in individual and representative capacity as  
11 Trustee of the Lotfi Ghattas 2016 Trust, owned the real property located at or  
12 about 2698 San Bruno Ave., San Francisco, California, in February 2022.

13      5. Defendant Lotfi Ghattas, in individual and representative capacity as  
14 Trustee of the Lotfi Ghattas 2016 Trust, owns the real property located at or  
15 about 2698 San Bruno Ave., San Francisco, California, currently.

16      6. Defendant Mary L. Ghattas owned Bus Stop Liquors & Deli located at or  
17 about 2698 San Bruno Ave., San Francisco, California, in February 2022.

18      7. Defendant Mary L. Ghattas owns Bus Stop Liquors & Deli located at or  
19 about 2698 San Bruno Ave., San Francisco, California, currently.

20      8. Defendant Lotfi Ghattas owned Bus Stop Liquors & Deli located at or  
21 about 2698 San Bruno Ave., San Francisco, California, in February 2022.

22      9. Defendant Lotfi Ghattas owns Bus Stop Liquors & Deli (“Store”) located  
23 at or about 2698 San Bruno Ave., San Francisco, California, currently.

24      10. Plaintiff does not know the true names of Defendants, their business  
25 capacities, their ownership connection to the property and business, or their  
26 relative responsibilities in causing the access violations herein complained of,  
27 and alleges a joint venture and common enterprise by all such Defendants.  
28 Plaintiff is informed and believes that each of the Defendants herein is

1 responsible in some capacity for the events herein alleged, or is a necessary  
2 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
3 the true names, capacities, connections, and responsibilities of the Defendants  
4 are ascertained.

5

6 **JURISDICTION & VENUE:**

7 11. The Court has subject matter jurisdiction over the action pursuant to 28  
8 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
9 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

10 12. Pursuant to supplemental jurisdiction, an attendant and related cause  
11 of action, arising from the same nucleus of operative facts and arising out of  
12 the same transactions, is also brought under California's Unruh Civil Rights  
13 Act, which act expressly incorporates the Americans with Disabilities Act.

14 13. Venue is proper in this court pursuant to 28 U.S.C. § 1331(b) and is  
15 founded on the fact that the real property which is the subject of this action is  
16 located in this district and that Plaintiff's cause of action arose in this district.

17

18 **FACTUAL ALLEGATIONS:**

19 14. Plaintiff went to the Store in February 2022 with the intention to avail  
20 himself of its goods or services motivated in part to determine if the  
21 defendants comply with the disability access laws. Not only did Plaintiff  
22 personally encounter the unlawful barriers in February 2022, but he wanted  
23 to return and patronize the business two more times but was specifically  
24 deterred due to his actual personal knowledge of the barriers gleaned from his  
25 encounter with them.

26 15. The Store is a facility open to the public, a place of public  
27 accommodation, and a business establishment.

28 16. Unfortunately, on the date of the plaintiff's visit, the defendants failed

1 to provide wheelchair accessible sales counters in conformance with the ADA  
2 Standards as it relates to wheelchair users like the plaintiff.

3 17. The Store provides sales counters to its customers but fails to provide  
4 wheelchair accessible sales counters in conformance with the ADA Standards.

5 18. A problem that plaintiff encountered was that the sales counter was too  
6 high. There was no counter that was 36 inches or less in height that plaintiff  
7 could use for his transactions.

8 19. Plaintiff believes that there are other features of the sales counters that  
9 likely fail to comply with the ADA Standards and seeks to have fully compliant  
10 sales counters for wheelchair users.

11 20. On information and belief, the defendants currently fail to provide  
12 wheelchair accessible sales counters.

13 21. Additionally, on the date of the plaintiff's visit, the defendants failed to  
14 provide wheelchair accessible paths of travel in conformance with the ADA  
15 Standards as it relates to wheelchair users like the plaintiff.

16 22. The Store provides paths of travel to its customers but fails to provide  
17 wheelchair accessible paths of travel in conformance with the ADA Standards.

18 23. One problem that plaintiff encountered was that the paths of travel  
19 inside the Store narrowed to less than 36 inches in width in some places.

20 24. Plaintiff believes that there are other features of the paths of travel that  
21 likely fail to comply with the ADA Standards and seeks to have fully compliant  
22 paths of travel for wheelchair users.

23 25. On information and belief, the defendants currently fail to provide  
24 wheelchair accessible paths of travel.

25 26. The failure to provide accessible facilities created difficulty and  
26 discomfort for the Plaintiff.

27 27. These barriers relate to and impact the plaintiff's disability. Plaintiff  
28 personally encountered these barriers.

1       28. As a wheelchair user, the plaintiff benefits from and is entitled to use  
2 wheelchair accessible facilities. By failing to provide accessible facilities, the  
3 defendants denied the plaintiff full and equal access.

4       29. The defendants have failed to maintain in working and useable  
5 conditions those features required to provide ready access to persons with  
6 disabilities.

7       30. The barriers identified above are easily removed without much  
8 difficulty or expense. They are the types of barriers identified by the  
9 Department of Justice as presumably readily achievable to remove and, in fact,  
10 these barriers are readily achievable to remove. Moreover, there are numerous  
11 alternative accommodations that could be made to provide a greater level of  
12 access if complete removal were not achievable.

13      31. Plaintiff will return to the Store to avail himself of its goods or services  
14 and to determine compliance with the disability access laws once it is  
15 represented to him that the Store and its facilities are accessible. Plaintiff is  
16 currently deterred from doing so because of his knowledge of the existing  
17 barriers and his uncertainty about the existence of yet other barriers on the  
18 site. If the barriers are not removed, the plaintiff will face unlawful and  
19 discriminatory barriers again.

20      32. Given the obvious and blatant nature of the barriers and violations  
21 alleged herein, the plaintiff alleges, on information and belief, that there are  
22 other violations and barriers on the site that relate to his disability. Plaintiff will  
23 amend the complaint, to provide proper notice regarding the scope of this  
24 lawsuit, once he conducts a site inspection. However, please be on notice that  
25 the plaintiff seeks to have all barriers related to his disability remedied. See  
26 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
27 encounters one barrier at a site, he can sue to have all barriers that relate to his  
28 disability removed regardless of whether he personally encountered them).

1           **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS  
2 WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
3 Defendants.) (42 U.S.C. section 12101, et seq.)

4           33. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
5 again herein, the allegations contained in all prior paragraphs of this  
6 complaint.

7           34. Under the ADA, it is an act of discrimination to fail to ensure that the  
8 privileges, advantages, accommodations, facilities, goods and services of any  
9 place of public accommodation is offered on a full and equal basis by anyone  
10 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
11 § 12182(a). Discrimination is defined, *inter alia*, as follows:

- 12           a. A failure to make reasonable modifications in policies, practices,  
13           or procedures, when such modifications are necessary to afford  
14           goods, services, facilities, privileges, advantages, or  
15           accommodations to individuals with disabilities, unless the  
16           accommodation would work a fundamental alteration of those  
17           services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 18           b. A failure to remove architectural barriers where such removal is  
19           readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
20           defined by reference to the ADA Standards.
- 21           c. A failure to make alterations in such a manner that, to the  
22           maximum extent feasible, the altered portions of the facility are  
23           readily accessible to and usable by individuals with disabilities,  
24           including individuals who use wheelchairs or to ensure that, to the  
25           maximum extent feasible, the path of travel to the altered area and  
26           the bathrooms, telephones, and drinking fountains serving the  
27           altered area, are readily accessible to and usable by individuals  
28           with disabilities. 42 U.S.C. § 12183(a)(2).

1       35. When a business provides sales counters, it must provide accessible  
2 sales counters.

3       36. Here, accessible sales counters have not been provided in conformance  
4 with the ADA Standards.

5       37. When a business provides paths of travel, it must provide accessible  
6 paths of travel.

7       38. Here, accessible paths of travel have not been provided in conformance  
8 with the ADA Standards.

9       39. The Safe Harbor provisions of the 2010 Standards are not applicable  
10 here because the conditions challenged in this lawsuit do not comply with the  
11 1991 Standards.

12       40. A public accommodation must maintain in operable working condition  
13 those features of its facilities and equipment that are required to be readily  
14 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

15       41. Here, the failure to ensure that the accessible facilities were available  
16 and ready to be used by the plaintiff is a violation of the law.

17

18 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL  
19 RIGHTS ACT (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
20 Code § 51-53.)**

21       42. Plaintiff repleads and incorporates by reference, as if fully set forth  
22 again herein, the allegations contained in all prior paragraphs of this  
23 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
24 that persons with disabilities are entitled to full and equal accommodations,  
25 advantages, facilities, privileges, or services in all business establishment of  
26 every kind whatsoever within the jurisdiction of the State of California. Cal.  
27 Civ. Code § 51(b).

28       43. The Unruh Act provides that a violation of the ADA is a violation of the

1 Unruh Act. Cal. Civ. Code, § 51(f).

2       44. Defendants' acts and omissions, as herein alleged, have violated the  
 3 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's  
 4 rights to full and equal use of the accommodations, advantages, facilities,  
 5 privileges, or services offered.

6       45. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
 7 discomfort or embarrassment for the plaintiff, the defendants are also each  
 8 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
 9 (c).)

10      **PRAYER:**

11      Wherefore, Plaintiff prays that this Court award damages and provide  
 12 relief as follows:

13      1. For injunctive relief, compelling Defendants to comply with the  
 14 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
 15 plaintiff is not invoking section 55 of the California Civil Code and is not  
 16 seeking injunctive relief under the Disabled Persons Act at all.

17      2. For equitable nominal damages for violation of the ADA. See  
 18 Uzuegbunam v. Preczewski, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8, 2021)  
 19 and any other equitable relief the Court sees fit to grant.

20      3. Damages under the Unruh Civil Rights Act, which provides for actual  
 21 damages and a statutory minimum of \$4,000 for each offense.

22      4. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
 23 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

25      Dated: March 14, 2022

CENTER FOR DISABILITY ACCESS

26      By: \_\_\_\_\_



28      Amanda Seabock, Esq.  
 Attorney for plaintiff